

Florida Keys Vacation Rental Issues Investigative Report



Illegal Vacation Rentals and Scams

Prepared for the:
Monroe County Tourist
Development Council

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Background

The purpose of the report is to examine the occurrence of illegal or non-compliant vacation rentals and vacation rental scams throughout the Florida Keys; providing recommendations for how such practices may be mitigated. Illegal vacation rentals and vacation rental scams are important issues to the Monroe County Tourist Development Council (TDC) for many reasons, including chiefly our concern of their potential negative impacts to our tourism industry, visitors and our community.

Illegal or non-compliant units may evade tourist development taxes and sales taxes. It is estimated that tourism is responsible for 60% of sales tax revenue in our community. Sales tax benefits our Keys area schools and infrastructure through our county's local option discretionary sales surtaxes. Sales tax also benefits our Keys municipalities through the State's half-cent give-back. This funds critical area services. Sales tax also funds the State and the services it provides to the Keys. In our area, one-cent of tourist development taxes collected on transient accommodations is a tourist impact tax. This tax funds environmentally sensitive land acquisition and affordable housing initiatives, and the County's general fund to offset the impacts of tourism. Almost 100% of this tax is paid by tourists. The remaining tourist development taxes leveled fund the TDC and its efforts to market the Florida Keys as a tourism destination and maintain its tourism product. This includes beach re-nourishment, support of local culture and the arts, event funding, and capital improvements to government owned and not-for-profit recreational offerings.

One of the impetuses for first setting into place ordinances restricting vacation rentals in the Keys was to prevent the scarce housing stock from excessively turning into vacation rentals. The Keys' housing stock available for its workforce, including the tourism industry's workers, and other residents remains scarce; and in a significant shortage of affordable units. Illegal vacation rentals circumvent these controls to prevent loss of residential housing units. By removing the units from the housing supply, they also put upward pressure on the cost of the remaining housing stock. This increasing housing cost is problematic for tourism industry businesses in being able to find and retain tourism workers that can sustain the high area housing cost.

The illegal units may also circumvent zoning restrictions that were put into place to prevent tourism sprawl. Again, this can create issues for the tourism industry and other residents. Neighbors of illegal units may be impacted with parking, traffic and noise issues.

Legal vacation rentals are required to be inspected and to comply with municipal regulations, including safety regulations. Illegal rentals may be circumventing the local municipal and State licensing process; and thereby inspection. This raises concerns that minimum safety standards, such a fire safety, are not being followed. Legal vacation rentals are also required to provide a licensed contact person, who also must be local and available 24/7, to handle any issues that arise from the rental. This protects both the visitor(s) and the neighbor(s). Illegal units may be rented by person(s) hundreds of miles away with no recourse for the visitor(s) or neighbor(s) should issues arise. Even issues such as trash disposal, parking, occupancy per unit, noise levels, method and frequency of cleaning the unit, hurricane evacuation, and for one Keys municipality turtle nesting protection, are covered in the codes that legal vacation rentals must

follow. Illegal units, again, may not adhere to these standards creating possible adverse effects for visitors and residents alike.

Legal vacation rental units submit tourism and sales taxes and pay annual fees to maintain their licenses. They deserve a level playing field for following the requirements. Failing to collect or remit tax, or maintain licenses, may give an illegal unit an unfair price advantage over a legal unit.

Vacation Rental Scams are across the board a negative occurrence for the tourism industry. Money is being illegally solicited from unsuspecting travelers. Word-of-mouth is continually hailed in tourism research as the most trusted source for information on travel. It is imperative that we protect and promote a positive word-of-mouth for our destination by doing our share to protect our visitors from a negative experience with illegal vacation rentals or a vacation rental scam.

The objective of this report is to establish a situation analysis, or descriptive profile of the problem of illegal units, or rental scams, and implement recommendations on how to solve the issues.

SECTION I: SITUATION ANALYSIS

Legal Vacation Rental Units

In order to define what constitutes an illegal vacation rental, it is prudent to first establish requirements for a legal unit. At the highest level, a transient rental per Florida State Statute occurs when any person rents out accommodations for six continuous months or less or without a bona fide lease.¹ Such transient rentals may include a hotel, apartment house, roominghouse, tourist or trailer camp, mobile home park, recreational vehicle park, condominium or timeshare resort. The duration may be nightly, weekly, or monthly, but the key point on the State level is transient is six months or less.

All transient rentals in Monroe County must have a:

- Paid Business Tax license account (occupational license) for transient rentals issued by the Monroe County Tax Collector.
- An account with the Monroe County Tax Collector to collect and remit Tourist Development Taxes.
- An account with the Florida Department of Revenue to collect and remit Florida State Sales Tax.

Most transient rentals in Monroe County must also hold a Florida Department of Business and Professional Regulation Public Lodging Establishment License.² Roominghouses no longer require a FDB&PR license.

All transient rentals in Monroe County must also comply with the code of the municipality in which they are located in; which includes being located within zones where transient accommodations are permitted, not renting for less than minimum rental periods established by the local municipal code, obtaining any licensing or permit required by the municipality and posting the vacation rental license number on any advertisement where required.

Generally, a local license is required for rentals of less than 28 days. The basic requirements by municipality are:

- City of Key Colony Beach
 - Register vacation rental with the City. The registration must include proof of County business tax license payment, state licenses, acknowledge of city regulations, city inspection and local contact person available 24/7.
 - No rentals for less than seven days.

¹ FS212.03 Transient rentals tax; rate, procedure, enforcement, exemptions.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0200-0299/0212/Sections/0212.03.html

² Services which require a State of Florida Department of Business and Professional Regulation Public Lodging Establishment license. <http://www.myfloridalicense.com/dbpr/hr/Servicesthatrequirelicense-Publiclodging.html>

- City of Key West
 - A transient rental is defined as “commercially operated housing principally available to short-term visitors for less than twenty-eight (28) days.”
 - A city of Key West business tax receipt for transient use is required to rent a residential property for less than 30 days.
 - A medallion must be displayed outside the property.
 - A contact person must be given available 24/7 for responding to complaints.
 - Special rules exist in the Truman Annex development. Eligible properties in that development may apply instead for “Truman Annex residential transient rental permit” and rent transient for up to 26 weeks per year.

- City of Layton
 - No rentals less than 90 days are permitted.

- City of Marathon:
 - A vacation rental property license is required for any property owner renting a legally existing dwelling unit for not less than seven (7) nights and not more than 28 nights. The renting of any private residence for a period of less than seven (7) nights is prohibited.
 - The City of Marathon vacation rental property license number and the vacation rental agent license number shall appear on all forms of vacation rental unit advertising. Where advertised on the internet, the PLR number shall appear on the "home page" of the advertisement.
 - Each vacation rental must have a notice posted with the contact information of the vacation rental agent or licensee, max occupancy for the unit, max number of vehicles allowed, trash information, notice that occupant may be fined or evicted for creating a disturbance or not following the rules and the license number.

- Unincorporated Monroe County/Key Largo/Big Pine Key & the Lower Keys
 - “A vacation rental means a dwelling unit that is rented, leased or assigned for tenancies of less than 28 days duration”³
 - An annual Special Vacation Rental Permit is required. This permit may not be required if a vacation rental is of a dwelling located within a controlled access, gated community with a homeowner’s or property owner’s association that expressly manages or regulates vacation rental use. The exemption only applies to the permit and does not exempt the unit from county vacation rental code.
 - The property must be inspected before a Special Vacation Rental permit is issued.
 - Must be in Land Use Districts where vacation rentals are permitted.

- Village of Islamorada:
 - Rentals of 28 days or less generally require a village vacation rental license.
 - State and village license number must be posted in all advertisements.

³ Monroe County Special Vacation Rental Permit <http://www.monroecounty-fl.gov/DocumentCenter/Home/View/151>

- There must also be sign on the property with the license number.
- No vacation rental use in a residential subdivision for less than seven days, unless otherwise permitted in a tourist commercial zoning district.
- Homeowner association rules may supersede license requirements, but the minimum day rule still applies.
- Primary and secondary contact person residing near the area must be included in the license to respond to any issues.

At the conclusion of this report are reference links which include the url to obtain further information on each municipality's vacation rental codes.

Illegal Vacation Rentals

For the purpose of this report, we are defining “illegal vacation rentals” as an accommodation rented to guests that does not meet one or more of the requirements for legality outlined in the above section. This may include, but is not limited to, the following:

- Failure to collect and remit Tourist Development Taxes.
- Failure to collect and remit Florida State Sales Tax.
- Failure to hold necessary licenses or vacation rental permits for the municipality in which the rental is located.
- Renting for a duration that requires a vacation rental permit but claiming rental is for duration that would not require permit to circumvent licensing (i.e. renting for one week, but claiming rental was for 30 days). Coaching renters to misrepresent rental period.
- Be located within a zone that does not permit transient rentals.
- Misrepresenting a renter as a family member in order to evade tax and minimum stay requirements.

The rental may be non-complaint, meaning not complying with one or more of the above requirements applicable to their situation, but could become compliant with due process. Or, they may illegal because they cannot be brought into compliance. For example, they are located in an area where short-term rentals are not permitted; and could not obtain a vacation rental license. For the purpose of this report, we shall group them together as “illegal vacation rentals”.

Illegal vacation rentals are a serious issue in the Keys. In a 2013 article, Monroe County officials estimated in unincorporated Monroe County alone there were 1,500 vacation rental homes but only 50 licenses for short-term rentals.⁴

Vacation Rental Scams

Vacation Rentals Scams differ from illegal vacation rentals. In this instance a person(s) is falsely representing themselves to be the leaser of a vacation rental. The unit itself might not exist; or it does exist but is not a vacation rental unit nor is it under the scammers ownership or

⁴ Filosa, Gwen. “Rentals in Paradise not always legal.” The Citizen. Aug 11, 2013.
<http://keysnews.com/node/49315>

management; or the scammer is impersonating the leaser of a legal rental. In either event, travelers believe they are booking an accommodation, but they are not, and may not discover they have been duped until they arrive at the address they have been given expecting to check in. There have been cases where scammers copy and paste pictures of a home for sale from the MLS and create a fictitious vacation rental ad that travelers respond to. There have been cases where legitimate vacation rental units have their site hacked and the scammer impersonates them to collect payment. Some homes have been used over and over again in scams against their will, to the point where the homeowner has had to post a sign on the exterior alerting travelers their home is not the vacation rental they think they have booked.

In cases such as these, the first step is to report it to the Monroe County Sheriff's office, or in Key West, the Key West Police Department. After investigation, the case may be turned over to the State Attorney's Office. The State Attorney's office has provided the TDC with tips they previously compiled for spotting a vacation rental scam. In our Section II: Recommendations and Next Steps, we will discuss how we may utilize these tips, and others we have gathered, to educate visitors and be proactive in stopping scams before they can occur.

Another agency that should be notified in the event a vacation rental scam occurs is the U.S. Federal Trade Commission or FTC. Information on how to contact FTC is included later in this report from our website posting on vacation rental scams.

Vessel Vacation Rentals

A perusal of accommodation rental sites like Expedia.com, VRBO.com and Airbnb.com will reveal several overnight vacation rentals that are on boats. Our initial research into the legality of overnight accommodations on vessels found this to be a complicated area that warrants further investigation. Municipal jurisdiction generally ends at land leading to the question of which agency may oversee such activity as its occurring on the water. Rules differ from vessels that stay at dock or go out to sea. We found the first step would be to determine with the marina itself if a transient rental is permitted in the lease agreement for the boat slip. For example, in the City of Key West at Garrison Bight Marina steps have been taken to clarify on lease agreements that this type of sublease is not permitted. The Marina may intercede to stop such practices where not permitted as a violation of the slip lease. We will continue to investigate rules and regulations for this practice.

Online Vacation Rental Practices

One of the primary mechanisms for illegal vacation rental units to advertise is through online rental sites; though in some cases magazine ads have also be utilized. This does not mean that every unit on popular online sites like VRBO.com, HomeAway.com, Airbnb.com is illegal. Rather that, they may utilize this method just as legal units do and may therefore be difficult to initially spot. As discussed later in the report in our review of our discussions with Code Enforcement/Compliance officers, some sites have been worse than others for ratio of illegal to legal units. Craigslist.com has been found to have the highest ratio of illegal units and most often been the source of vacation rental scams.

Code compliance has cited both individual property owners and rental agencies in illegal units. In the Tax Collector's office tax compliance cases, property owners have more often than not been second home owners residing outside the Keys; about a 60/40 ratio.

One online vacation rental site in particular we wanted to investigate for this study, because of its fast growth and issues in other destinations, was Airbnb. Airbnb has been the subject of much media and industry discussion of late. Essentially, it provides a new, sleeker method of creating a marketplace for accommodations. It is a platform tool. Individuals through fee-based sharing can use it to offer an accommodation for rent from a spare room to a luxury home. According to travel news site Skift, "with smart technology and equally smart design sensibilities, [Airbnb] took the existing concept of vacation rentals, made everything more efficient and reliable, created new markets in urban areas, and got a new generation of consumers hooked on the concept... since it was founded in August of 2008 it's facilitated over ten million nights' worth of bookings."⁵

In and of itself, listing on Airbnb is not illegal. Legal vacation rentals may use Airbnb. It provides an easy mechanism to become a "host" and list for rent one's property or a share of it. But hosts may not be aware of, or may feel exempt from, local vacation rental regulations. Airbnb permitting one to post something for rent on their site does not make it lawful to actually rent it out. In Florida renting ones spare bedroom or couch is as responsible for collecting and remitting bed tax as an entire dwelling unit. Living and sleeping quarters are included in Florida State Statute as well as dwellings.

There is information provided on Airbnb for both hosts and renters about the need to know and to follow local code and tax requirements. But, largely this responsibility is left up to the host and renter. Further, Airbnb lends itself to bypass tax collection because it doesn't make it transparent or easy to actually disclose or collect required bed tax for most destinations it serves.

Florida State Statute requires that the tourist tax be charged by the person receiving the payment and be charged at the time of payment. Airbnb is problematic for this practice in that it only collects bed tax for a few destinations. Hosts from other locations have to manually add the tax themselves to their listing and it is neither easy nor clear how to do so. Airbnb advises they can incorporate it into their rate or add it as a "special offer". Clearly, their listing methods are not designed to be tax compliant as there is not even an option to add it in a transparent manner. Hosts are also advised to collect it outside the Airbnb transaction and/or at the time of rental. This would not be in compliance with Florida Statutes as it's not at the same time payment is received as is required. The following is what Airbnb tells hosts regarding tax collection:

⁵ Clampet, Jason. "Airbnb's growing pains mirrored in New York City, where half its listings are illegal rentals." Skift. Jan 07, 2013. <http://skift.com/2013/01/07/airbnbs-growing-pains-mirrored-in-new-york-city-where-half-its-listings-are-illegal-rentals/>

How do taxes work for hosts?

Local Tax

Your state or locality may impose a tax on the rental of rooms. In many places this is known as a occupancy tax, but may also be known as a lodging tax, a room tax, a use tax, a tourist tax, or hotel tax. We expect all hosts to familiarize themselves with and follow their local laws and regulations.

If you determine that you need to collect tax, you may either incorporate it into your nightly price, add it via a Special Offer, or ask your guests to pay it in person. In each case, it's important that guests are informed of the exact tax amount prior to booking.

If you choose to collect tax outside of your listing's rates, please note that it should be collected only upon arrival and that we are unable to assist with collection.

In some locations, Airbnb has made agreements with government officials to collect and remit local taxes on behalf of hosts, making the tax collection process easier for all parties involved. For Airbnb listings in these areas, applicable local taxes are calculated and collected at the time of booking. This won't affect the payouts you receive for reservations. As a host, you'll continue to collect your payout of accommodation fees minus Airbnb service fees, just as you do today.

We're dedicated to keeping your personal information private—if at any point we're required to share any information with your local government, you'll be specifically notified of the needed disclosures.

Some destinations have sued Airbnb over their failure to collect taxes in their rental transactions. Florida State Statute specifies “any person who is taxable hereunder who fails or refused to charge and collect from the person paying for the taxable privilege the taxes herein provided, either by himself or herself or through agents or employees, is, in addition to being personally liable for the payment of the tax, guilty of a misdemeanor of the second degree.”⁶ Palm Beach County's Tax Collector has filed a lawsuit against Airbnb. Property owners utilizing Airbnb have also been sued by long-term tenants they evicted in order to turn the property into an illegal short-term vacation rental.

The City of Key West's code allows them to cite a real estate agent/broker who assistant in the rental of a non-transient unit. The City has a pending citation against Airbnb set to go before the code compliance special magistrate at the end of this month. They are in negotiations with Airbnb.

Beyond tax issues, Airbnb has been found in investigations to be rife with illegal rentals. One investigation in New York City found more than half of Airbnb's listings to be illegal. Further, they weren't the home owner renting occasionally to make ends meet that Airbnb portrays as the main users of its system. There were multiple listings by businesses. According to Travel site Skift, Airbnb's excuse for allowing hosts to list illegal units for rent is they can't possibly keep up

⁶ http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0125/Sections/0125.0108.html

with the law in all the cities.⁷ However, Airbnb was actively involved in lobbying against legislation that restricted short-term rentals in New York City; but failed to take any action to clear up illegal units from its New York City listings after the legislation passed. Also, New York City is arguably one of the most popular vacation spots in the world. If Airbnb can't, or won't, keep up with regulations there it seems unlikely any destination will reviewed for legality of units listed.

This leaves oversight up to the destinations. In 2013, the City of Key West cited a dozen people for selling nightly spots in their houses via Airbnb⁸. After this citation, the City noted 65 other rentals disappeared from Airbnb's site. In our recommendations section, we discuss the need for both more citations like this and getting the word out publically that enforcement is happening to dissuade others from continuing the practice.

Contrasting the Airbnb lack of oversight in cleaning up illegal rentals is other online agencies like HomeAway. "HomeAway, the largest vacation rental website, relies on user reviews to ensure quality, and it will investigate a listing when it's reported as unclean. It offers an application for rental owners to make tax compliance easier."⁹

Airbnb does withhold payment to the host until 24 hours after check-in. Part of our education of travelers utilizing this service should include awareness of this and their right to contact Airbnb right away if the rental they find is not as advertised or is illegal.

Oversight and Enforcement

As of January 1, 2015, the Monroe County Tax Collector assumed duties of Tourist Development Taxes auditing and enforcement responsibilities from the Monroe County Clerk of the Court. We spoke at length with the Monroe County Tax Collector, the Honorable Danise Henriquez, and the Senior Tourist Development Tax Auditor, Pamela Limbert Sellers, CFE about the procedures they have put into place since assuming this role.

Ms. Henriquez, and her staff, is well versed in tax audit and enforcement. They have provided this role for other taxes Ms. Henriquez is charged with collecting, and are known for bringing those failing to fully remit tax into compliance.

One of the initiatives in their new role is to create a communication loop through developing relationships with the local municipalities. Through this loop, information on both offenders and licensees will be shared. In this way, one can be assured that the event of holding one license triggers an information review with the other license issuers to make sure all appropriate licenses are held. The Tax Collectors office maintains both Monroe County Business Tax licenses for transient use, as well as, bed tax accounts making an easy system to cross reference

⁷ Clampet, Jason. "Airbnb's growing pains mirrored in New York City, where half its listings are illegal rentals." Skift. Jan 07, 2013. <http://skift.com/2013/01/07/airbnbs-growing-pains-mirrored-in-new-york-city-where-half-its-listings-are-illegal-rentals/>

⁸ Filosa, Gwen. "Rentals in Paradise not always legal." The Citizen. Aug 11, 2013. <http://keysnews.com/node/49315>

⁹ Elliott, Christopher. "Avoid booking a 'rogue' vacation rental." USA Today. Mar 26, 2015. <http://www.usatoday.com/story/travel/columnist/2015/03/08/vacation-rental-tips/24492495/>

the two. As Monroe County Business Tax licenses are public information, information on who holds these licenses can be shared with the municipalities to ensure they also hold any local required vacation rental permits/licenses.

Likewise municipalities have shared with the Tax Collectors office their cases of illegal or non-compliant vacation rentals. The Tax Collector's office can examine the case and determine if there was also a failure to fully remit bed tax.

According to information provided by the Tax Collectors office:

- Over 130 cases have been referred by Monroe County to the Tax Collectors office for tax compliance.
- The City of Key West has referred 13 cases for tax compliance.
- The Village of Islamorada has referred 77 cases for tax compliance. They have also referred 228 vacation rental licenses for tax compliance.
- These referrals have resulted in the assessment and collection of over \$25,000 in tourist development tax, penalties, interest and fees. They have also resulted in the establishment of 22 new Monroe County Tourist Development Tax Accounts.
- The Tax Collector plans to continue to establish relationships with other municipalities in Monroe County to increase compliance and tax collections.
- The Tax Collectors office may go back three years, or 36 months, in their review to bring units into tax compliance.
- The Tax Collectors office can use online advertisements and reviews to find properties that aren't in compliance with tax remittance and build their case.
- Should the Tax Collector's audit determine underpayment of taxes, the burden of proof is on the home owner to show tax is not due.

At a municipal level, audit and compliance is managed by the various Code Enforcement or Code Compliance departments. The Code Enforcement/Compliance officers dedicated to vacation rentals through the Keys are:

Key West:

Matt Willman, Code Compliance Officer
(305) 809-3735
mwillman@cityofkeywest-fl.gov

Unincorporated Monroe County:

Francie Boellard, Vacation Rental Inspector
Boellard-Francie@MonroeCounty-FL.gov
(305) 289-2589

Marathon:

Cody Ward, Code Compliance Officer
305-289-4108
wardc@ci.marathon.fl.us

Patti Childress , Code Compliance Officer
305-289-4125
childressp@ci.marathon.fl.us

Islamorada:

Debbie Lapointe, Code Compliance Officer
305-664-6435
debbie.lapointe@islamorada.fl.us

In speaking with the Code Enforcement/Compliance officers, some common issues themes emerged:

- The process of oversight is very manually intensive. It may require repeated visits to the location to try and speak with a renter and investigate a complaint. Advertisements, including those on online sites like VRBO.com and Airbnb.com generally don't provide the physical location of the property. It may require several attempts at communication with an online ad to obtain and verify an address. Each case takes significant staff time.
- The one piece of information most helpful in building a case is getting a copy of the rental agreement from the visitor.
- Residents or visitors making a complaint can help the investigation by providing as much information as possible.
- Audits of online vacation rental sites have found the largest number of illegal units and scams to be advertised on Craigslist.com. On the other hand, VRBO.com and flipkey.com have more often than not been legal upon investigation.
- Often the leaser isn't aware of regulations and does make due efforts to come into compliance once they have been made aware. There are, however, repeat offenders who do not attempt to be compliant. This tends to occur more among luxury rentals with out-of-town home owners.
- It is difficult at hearings to win cases against illegal rentals. Often magistrates rule they don't have enough evidence to prove a violation. An advertisement is not enough.

As part of our regular research program, the TDC had contracted with a firm called DestiMetrics to gather occupancy and rate statistics from Keys vacation rental companies. As they are an industry expert in vacation rentals, we contacted them for this report to discuss these issues. DestiMetrics had recently conducted a review of destination's oversight of rent-by-owner vacation rentals for Vail, Colorado which they shared in part with us. 24 Destinations participated in their review. In reviewing their study, we find the Keys municipalities are undertaking most actions of other destinations on rent-by-owner (RBO) vacation rentals. One area to expand auditing and enforcement may be to "establish a relationship with RBO-enabling companies like VRBO.com, Airbnb.com, or HomeAway.com as a means of monitoring inventory".¹⁰ The full list of actions towns are currently taking around RBO units that DestiMetrics surveyed are:

1. "Requires and enforces business license compliance on RBO units – 85% surveyed
2. Collects lodging tax remittance from RBO units – 85% surveyed
3. Pursues delinquent lodging tax remittance from RBO units – 69% surveyed
4. Has zoning restrictions on RBO units – 62% surveyed

¹⁰ Barnes, Katie. "Results of Grey Market Vacation Rentals Policies Analysis " Prepared by DestiMetrics for the Vail Town Council. Nov 4 2014.

5. Enforces zoning restrictions on RBO units – *54% surveyed*
6. Monitors the size of the RBO market by using internet searches – *54% surveyed*
7. Has shut down RBO units in the past due to violations of statutes/ordinances in place to regulate the industry – *38% surveyed*
8. Requires and enforces safety code compliance on RBO units – *31% surveyed*
9. Monitors the size of the RBO market through licensing – *23% surveyed*
10. Has a sub-department or staff of an existing regulatory agency that is exclusively for RBO oversight - *15% surveyed*
11. Has had direct communication with RBO-enabling companies like VRBO.com, Airbnb.com or HomeAway.com as a means of monitoring inventory. – *8% surveyed*¹¹

For vacation rental scams, the first line of investigation comes from local law enforcement. That is generally the Monroe County Sheriff's Department; with the exception of Key West where the Key West Police Department would first review a case. From there, it may be turned over to the State Attorney's office. These cases can be very difficult to build and prosecute. Often untraceable means are used to perpetrate the scam, like pre-paid phones. The scammers are very experienced at covering their tracks. However, the State Attorney has had success with large scale, local repeat scammer cases.

The U.S. Federal Trade Commission (FTC) can also review such cases.

Visitor Education and Support

The Tourist Development Council and the five Chambers of Commerce throughout the Keys have all taken steps to provide visitor assistance regarding vacation rentals. This may be education of visitors about requirements for legal rentals, tips how to avoid vacation rental scams and or/support should visitors be impacted by an illegal rental or scam.

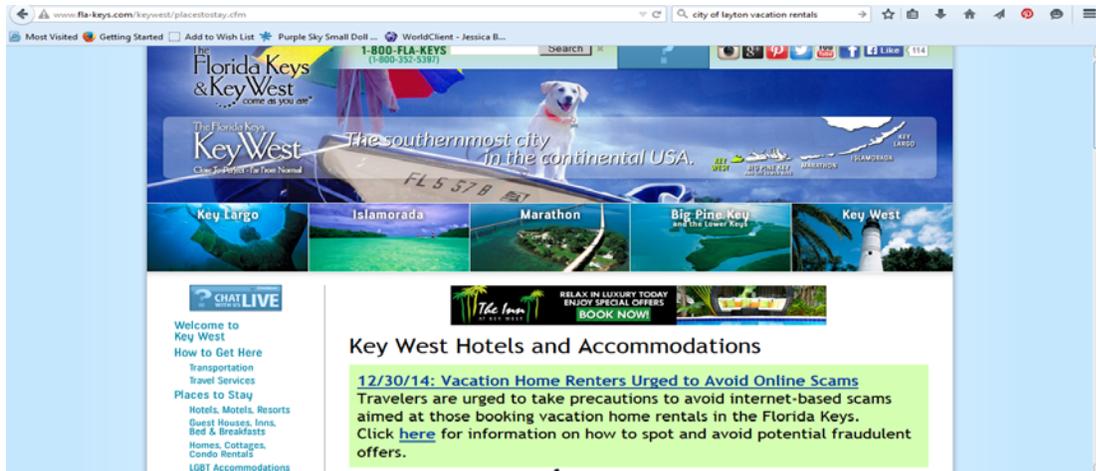
At the Tourist Development Council, we utilize our website and printed brochure to provide prospective visitors with information. On our page listing "Places to Stay" in the Keys, we provide information on how to avoid vacation rental scams. (Shown to the right). This same link is also listed within each district's "Places to Stay" page. (Shown below)



Start by selecting the region of the Keys where you'd like to stay.

12/30/14: Vacation Home Renters Urged to Avoid Online Scams
 Travelers are urged to take precautions to avoid internet-based scams aimed at those booking vacation home rentals in the Florida Keys. Click [here](#) for information on how to spot and avoid potential fraudulent offers.

¹¹ Barnes, Katie. "Results of Grey Market Vacation Rentals Policies Analysis " Prepared by DestiMetrics for the Vail Town Council. Nov 4 2014.



The prospective visitor is then linked to the following information page:

Vacation Home Renters Urged to Avoid Online Scams

Travelers are cautioned to take precautions to avoid internet-based scams aimed at those desiring to book vacation home rentals.

Online rental scams are a worldwide problem, according to authorities.

In a typical scam, a deposit or full payment is taken via a mailed check, wire money transfer or PayPal.

Fraudulent online listings often to appear to be legitimate, but are not. Some scammers will reproduce actual real estate listings with photos and property descriptions.

Local law enforcement and tourism officials suggest consumers consider the following guidelines when booking vacation rentals.

- **Use a major credit card for lodging transactions, as is customary around the world.** Most, if not all, bona fide rental firms accept credit cards. Major credit card companies normally protect the consumer in the event of fraud.
- **Never electronically transfer money to someone you have not met in person.**
- **Be extremely wary of property owners who say they are out of the country and ask you to send a check to another person or another town. This is almost always a clear indicator of a scam.**
- **If it sounds too good to be true, it probably is.** Sometimes a deep discount is a red flag that something is not right with the listing.
- **All bona fide vacation rentals in the Florida Keys are licensed.** Ask the agent for a copy of the transient license before paying.
- **Most real estate firms or bona fide rental agents are members of a local chamber of commerce or lodging association. Those groups may be able to help verify the rental owner or agent.**

Florida Keys chambers of commerce phone numbers are:

Key Largo: 1-800-822-1088/305-451-4747

Islamorada: 1-800-FAB-KEYS/305-664-4503

Marathon: 1-800-262-7284/305-743-5417

Lower Keys: 1-800-872-3722/305-872-2411

Key West: 1-800-LAST-KEY/305-294-2587

The Florida Keys also has online chat links direct with visitor information professionals situated at the chambers who can be accessed weekdays from 9 a.m. to 5 p.m. ET through a link at the top of the home page at www.fla-keys.com. The Lodging Association of the Florida Keys and Key West can be contacted at 305-296-4959.

• **If you are scammed, report it to local law enforcement as well as the U.S Federal Trade Commission (FTC), whose investigators frequently collaborate with local law enforcement officials.** The phone number to report a crime to the Monroe County Sheriff's Office is 305-289-2351. The non-emergency phone number at the City of Key West Police Department is 305-809-1111.

• **To file a complaint with the FTC, visit www.ftc.gov or call toll-free 1-877-FTC-HELP (1-877-382-4357).**

Originally Posted: Oct. 13, 2011. Updated: Dec. 30, 2014

Each district's page within the Vacation Rental directory also lists this information on scams, as well as, instructs prospective visitors to inquire about vacation rental licenses when booking. In Section II we will outline our next steps for enhancing the information provided here:

The screenshot displays the Florida Keys Chamber of Commerce website. At the top, a banner features a boat and the text "The southernmost city in the continental USA." Below this is a navigation bar with buttons for Key Largo, Islamorada, Marathon, Big Pine Key and the Lower Keys, and Key West. A "CHAT LIVE" button is visible on the left. The main content area is titled "Directory of Key West Vacation Rentals" and includes a warning: "12/30/14: Vacation Home Renters Urged to Avoid Online Scams. Travelers are urged to take precautions to avoid internet-based scams aimed at those booking vacation home rentals in the Florida Keys." A Marriott Key West Beachside Hotel logo is also present.

The Tourist Development Council printed Accommodations Guide also provides language about vacation rental licensing on each page in which vacation rentals are featured. The language reads:

Monroe County requires a special vacation rental permit for most properties other than motels, hotels and RV parks that are rented for periods less than twenty-eight days. Visitors expecting to stay for less than twenty-eight days are encouraged to ask whether the property is specially permitted. State Statutes require motels and hotels to provide at least 5% of the guest rooms with certain handicapped accessibility criteria. Visitors are encouraged to discuss specific handicapped accessibility needs with the individual establishments. Rates may be higher during peak season, holidays and special events.

The Chambers of Commerce, as they answer the Visitor Information 1-800 phone lines advertised by the Tourist Development Council, are often the first point of contact for



prospective visitors questioning whether a rental is legal. They refer the inquiry to the respective Code Enforcement officer; or in the case of Key West, the City's licensing department. The Key West Chamber of Commerce provides an information page on their website of how to verify a vacation rental in the City of

Key West is legal. (shown above). For Islamorada, most of the calls they have regarding vacation rentals are also inquiries about legality.

We spoke with the Village of Islamorada to inquiry if there may be a listing of legal units posted on their website that can be easily searched by visitors. They are currently updating their website and will take this suggestion into consideration.

In the latest printing of their visitors guide, the Key Largo Chamber of Commerce included an article (shown on the right) about what travelers need to know to stay in legal vacation rental unit and avoid illegal units and scams. We will recommend the other Chambers review and consider the same action. The full article can be found in the downloadable version of the Key Largo Chamber's visitors guide at: www.keylargo-chamber.org

Are you renting from a reputable, currently licensed vacation rental?
Avoid a vacation misadventure...



Today is the day you've been waiting for, that long anticipated vacation is now here. You wake up in a wonderful mood, get up early, pack the car and drive to the airport. Everyone is excited and you fly off to your vacation destination. You land, get baggage and pick up the rental car and off you go to the vacation rental you found online. After hours of travel you finally arrive at the home to find out you have nowhere to stay.

vacation rental websites like VRBO, Home Away or Craig's List. If they visit the property and determine an illegal rental is taking place, the unsuspecting vacationer becomes a party to this illegal rental activity and can have their vacation ruined.

In addition to adhering to local rental restrictions, homeowners and management companies alike are obligated to collect a state sales tax and local bed tax from vacationers. If an

Vacation rentals have become

Further, as each Chamber manages a visitor center they are often the first point of contact when a visitor has experienced a vacation rental scam or illegal rental while in the Keys. Some of the Chambers have a form they use to accept information on scams or illegal rentals from visitors and disseminate to the appropriate agencies for follow-up. The Key West Chamber of Commerce's form is an excellent example of such a procedure. For those Chambers who do not currently have such a process in place, we shared this form with them as an example. We also asked all Chambers to add the Tax Collector's office to their list of agencies to inform in the event that a complaint has been received. All have agreed to do so.

SECTION II: RECOMMENDATIONS AND NEXT STEPS

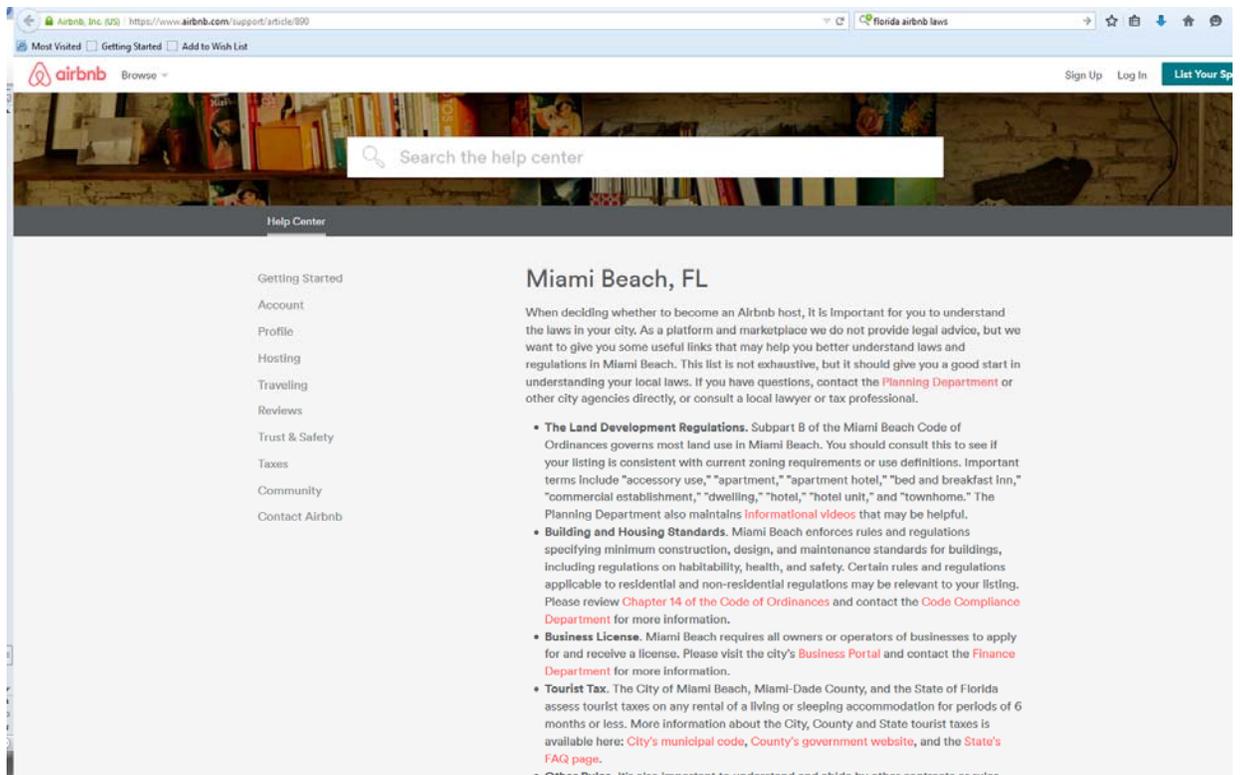
Next Steps for the Monroe County Tax Collector's Office & the Monroe County Tourist Development Council to collaborate on

- Per State Statutes, a percent of all Tourist Tax Collections must go to the Tax Collectors office to fund the collection and oversight of the tourist tax. The Tourist Development Council is working with the Tax Collector to identify ways in which these administrative funds may pay for, or supplement, the audit and enforcement function. The Tax Collector and TDC have mutually agreed that the Tax Collector will set up a 1-800 hotline and email address from these funds to field illegal vacation rental complaints.
- Once the 1-800 number and email are in place, the TDC will work to provide them to Keys residents and visitors. Media and tourism advisory releases will be prepared and sent by our Public Relations firm, Newman PR. We will also print cards with the numbers, similar to our foreign traveler assistance cards, and disseminated to the Chambers of Commerce and other visitor centers in the Keys.
- Historically, as part of the audit function, letters were sent to new homeowners when a property that had been used as a vacation rental changed hands. The letter was to inform the new owners of the procedures they must follow should they also choose to rent short-term. It may be prudent to expand this practice of notification of area vacation rental requirements to all new property owners.

Next Steps for the Monroe County Tourist Development Council

- As Code Compliance often finds, in the case of illegal vacation rentals, owners aren't always aware of the tax and licensing requirements to rent in our area. Particularly since a site like Airbnb doesn't collect taxes, require its hosts to collect taxes, nor include a method for easily charging them on its listing forms, a first step in reducing illegal rentals may be to simply get the information out as to what is required. We will draft an email notification, with input from the Monroe County Tax Collector, outlining the requirements for vacation rentals in the Keys and providing information on how to become compliant. Next, TDC staff will send this email to each vacation rental listing on popular sites like airbnb, vrbo, homeaway, and craigslist.
- Communication of information to visitors will also be key in reducing illegal vacation rentals and scams through proactive education. To that end, the TDC has come up with several ways to help educate our visitors.
 - Working with Tinsley Advertising, we will research advertisements we might place with popular online vacation rental sites that give visitors relevant information on what constitutes legal rentals and how to avoid scams. We envision a "What to Know Before You Go" clickable link that will provide a multitude of useful information for visiting the Keys, including vacation rental information. This may be in the form of placement directly on the sites if advertisements are sold, or when they are not, using ad tracking software to follow the prospective visitor and serve the information in subsequent websites.

- We will work to expand our information on vacation rental licensing on our website, as well as, how to determine if a unit is legal. We will provide a link to the Monroe County Tax Collector's Business Tax License database for a quick way to perform an online license search. The Business Tax License database is used to cross reference bed tax accounts and assure any person who has one, has the other. The Tax Collector also shares the information with the municipalities to again assure they are on their list for legal vacation rentals as well. Since it is the beginning of that communication and review loop, and it's an easy online tool, it is a great mechanism for verification.
- We will work with popular travel review sites, like Tripadvisor, to add informative articles about how to rent legal vacation rentals in the Keys and what to watch out for.
- Newman PR already expanded our website tips on avoiding vacation rental scams following the discussion on vacation rental issues at our December TDC meeting. We will review the tips provided by the State Attorney's office for this study and ensure they are all included as well.
- We will add to the Islamorada and Marathon Vacation Rental Accommodations section of our website that all vacation rentals in these areas are required to post their license number on all advertisements. Failure to include a license number should warrant concern and further investigation.
- We will recommend all vacation rentals voluntarily include a Monroe County Business Tax license number or municipal license number in their online advertisements, including on sites like VRBO and Airbnb. Such practice would help travelers better identify legal rentals. This recommendation should also be included in our email about vacation rental requirements that will be sent to all vacation rentals currently listed on online vacation rental sites.
- One of the reasons illegal rental practices can be difficult to prosecute is leasers have coached renters to say they are staying for longer than they are or are family members in order to circumvent the less than 28 day rules. Part of our education and outreach to travelers should address this and why it's important not to assist the property owner in this illicit practice.
- As most tips on illegal vacation rentals come from Monroe County residents, it will be important to get the word out to residents once the Monroe County Tax Collector's 1-800 hotline and email accounts are set up. We will utilize local media to publish the number, including news stories and advertisements.
- We will contact Airbnb to request they add the Florida Keys & Key West to their list of license requirements for vacation rentals by destination. Currently, Miami and Orlando are listed. Below is the Miami section:



- Working with the Tax Collectors office, and the municipal code enforcement/compliance officers, draft a list of illegal rentals that cannot be brought into compliance and are advertising online. Share these units with the websites they are listed with, asking for their removal. If this should fail to produce results, consider adding to the unit’s traveler reviews the official findings of code hearings (when information is public) to alert other travelers.

Recommendations for the Keys’ Municipalities

- Join together, along with the Tax Collectors office, to require Airbnb begin collecting taxes for any transaction in Monroe County. If Airbnb should refuse to do so, file a joint lawsuit as other destinations have done.
- As of July, 2014, a 2011 Florida State Statute that had previously prevented local municipalities from changing vacation rental ordinances has been readdressed and the 2011 statute reversed. We recommend municipalities take the time to review their code to identify any necessary changes; including updating for modern methods of advertisement and rentals like airbnb. For example, Airbnb includes less traditional vacation rental types like single bedrooms within a home or even a couch. State Statute language specifies tax due on rental of “any living quarters”. This “living quarter” language may be better applied to such cases of room/couch rentals than the terminology generally used in municipal code of “dwelling”. It would be prudent to review and determine how to best address these less traditional rentals.
- The City of Key West has issued a citation to Airbnb for their part in facilitating illegal vacation rentals. We recommend the other Keys municipalities follow the result of this case and take similar action. If their current code does not allow them to cite Airbnb as

Key West's does, consider revising their code to adopt Key West's language which does allow this or taking other action which holds Airbnb, other sites and real estate agents responsible should they facilitate illegal rentals.

- Recommend Monroe County and Key West consider adopting the requirement of Marathon and Islamorada that all vacation rental advertisements must include the rentals' license number. These would further help travelers distinguish between legitimate and potentially illegal rentals.
- Conduct a review of Airbnb rentals, targeting some of the more blatant offenders; then utilize local media to make the citation of these units public. A 2013 citation of 12 illegal Airbnb rentals in Key West was followed by around 65 other likely illegal rentals removing themselves from the website.
- Add a section to your municipal website with a list of licensed vacation rental units that may be easily accessed by prospective visitors.

Recommendations for the Chambers of Commerce

- Add language to the accommodations pages of their websites which feature vacation rentals similar to the TDC letting prospective visitors how to avoid vacation rental scams and illegal rentals if they are not renting from one of their verified, legal vacation rental members listed on the page.
- Add a link to the Monroe County Tax Collector's online database of business transient tax licenses. As all vacation rental units Keys-wide need this license, it is a good first step in verifying legitimacy.
- If not already in place, provide a form for visitors to report illegal vacation rentals and vacation scams that may be forwarded to the appropriate agency; including the Monroe County Tax Collector, Monroe County Sheriff or Key West Police Department, and the municipality's code enforcement/compliance officer.
- If a form/procedure is already in place, add the Monroe County Tax Collector to their list of referring agencies.

SECTION III: LINKS FOR FURTHER INFORMATION

City of Key Colony Beach

- Municipal code, relevant section(s) - Vacation Rental Ordinance Section 9-22
https://www.municode.com/library/fl/key_colony_beach/codes/code_of_ordinances

City of Key West

- Municipal Code
https://www.municode.com/library/FL/key_west/codes/code_of_ordinances

City of Layton

- Municipal Code, Sec. 126-123 covers vacation rentals
https://www.municode.com/library/fl/layton/codes/code_of_ordinances

City of Marathon

- Vacation Rental Information: Forms, information and a video
<http://www.ci.marathon.fl.us/vacationrental/>
- Municipal Code
https://www.municode.com/library/FL/marathon/codes/code_of_ordinances

Florida Department of Business and Professional Regulation Division of Hotels

- Services that require a public lodging establishment license
<http://www.myfloridalicense.com/dbpr/hr/Servicesthatrequirealicense-Publiclodging.html>
- Report unlicensed activity
<http://www.myfloridalicense.com/dbpr/reg/UnlicensedActivity.html>

Florida Department of Revenue

- Hotel/Transient Rentals Standard Industry Guide
http://dor.myflorida.com/dor/taxes/sigs/hotel_transient_rental.pdf

Florida State Statute

- Definitions of accommodation types
http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0200-0299/0212/Sections/0212.02.html

Monroe County Vacation Rentals

- How to search County code enforcement cases
<http://egov.monroecounty-fl.gov/eGovPlus/code/codeenf.aspx>
- Vacation Rental License application
<http://www.monroecounty-fl.gov/DocumentCenter/Home/View/151>
- How to log a complaint about an illegal rental
<http://www.monroecounty-fl.gov/forms.aspx?fid=74>
- Informational brochure on vacation rentals
<http://fl-monroecounty.civicplus.com/DocumentCenter/Home/View/6461>
- Monroe County Municipal code, relevant sections are Sec. 134-1. - Vacation rental uses, Sec. 23-201. - Penalties and liens, ARTICLE VI. - TOURIST DEVELOPMENT
https://www.municode.com/library/FL/monroe_county

Village of Islamorada

- **Municipal Code, Sec. 30-1296 covers Vacation Rentals**
https://www.municode.com/library/FL/key_west/codes/code_of_ordinances